

INITIATIVE 639

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copies of Initiative Measure No. 638, Initiative Measure No. 639, and Initiative Measure No. 640 are true and correct copies as they were received by this office.

Reviser's note: Multiple initiatives were certified by this certificate. Each is filed as a separate document.

1 AN ACT Relating to group facilities for children; amending RCW
2 13.34.030, 13.34.130, and 74.13.031; adding a new section to chapter
3 13.34 RCW; adding a new section to chapter 74.13 RCW; creating a new
4 section; and providing an effective date.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 13.34.030 and 1994 c 288 s 1 are each amended to read
7 as follows:

8 For purposes of this chapter:

9 (1) "Child" and "juvenile" means any individual under the age of
10 eighteen years.

11 (2) "Current placement episode" means the period of time that
12 begins with the most recent date that the child was removed from the
13 home of the parent, guardian, or legal custodian for purposes of
14 placement in out-of-home care and continues until the child returns
15 home, an adoption decree or guardianship order is entered, or the
16 dependency is dismissed, whichever occurs soonest. If the most recent
17 date of removal occurred prior to the filing of a dependency petition
18 under this chapter or after filing but prior to entry of a disposition

1 order, such time periods shall be included when calculating the length
2 of a child's current placement episode.

3 (3) "Dependency guardian" means the person, nonprofit corporation,
4 or Indian tribe appointed by the court pursuant to RCW 13.34.232 for
5 the limited purpose of assisting the court in the supervision of the
6 dependency.

7 (4) "Dependent child" means any child:

8 (a) Who has been abandoned; that is, where the child's parent,
9 guardian, or other custodian has evidenced either by statement or
10 conduct, a settled intent to forego, for an extended period, all
11 parental rights or all parental responsibilities despite an ability to
12 do so;

13 (b) Who is abused or neglected as defined in chapter 26.44 RCW by
14 a person legally responsible for the care of the child;

15 (c) Who has no parent, guardian, or custodian capable of adequately
16 caring for the child, such that the child is in circumstances which
17 constitute a danger of substantial damage to the child's psychological
18 or physical development; or

19 (d) Who has a developmental disability, as defined in RCW
20 71A.10.020 and whose parent, guardian, or legal custodian together with
21 the department determines that services appropriate to the child's
22 needs can not be provided in the home. However, (a), (b), and (c) of
23 this subsection may still be applied if other reasons for removal of
24 the child from the home exist.

25 (5) "Guardian" means the person or agency that: (a) Has been
26 appointed as the guardian of a child in a legal proceeding other than
27 a proceeding under this chapter; and (b) has the legal right to custody
28 of the child pursuant to such appointment. The term "guardian" shall
29 not include a "dependency guardian" appointed pursuant to a proceeding
30 under this chapter.

31 (6) "Guardian ad litem" means a person, appointed by the court to
32 represent the best interest of a child in a proceeding under this
33 chapter, or in any matter which may be consolidated with a proceeding
34 under this chapter. A "court-appointed special advocate" appointed by
35 the court to be the guardian ad litem for the child, or to perform
36 substantially the same duties and functions as a guardian ad litem,
37 shall be deemed to be guardian ad litem for all purposes and uses of
38 this chapter.

(7) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(8) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW; or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW; or placement in a facility operated and administered by the state of Washington.

(9) "Preventive services" means family preservation services, as defined in RCW 74.14C.010, and other reasonably available services capable of preventing the need for out-of-home placement while protecting the child.

Sec. 2. RCW 13.34.130 and 1994 c 288 s 4 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030; after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility

1 licensed pursuant to chapter 74.15 RCW or in a home not required to be
2 licensed pursuant to chapter 74.15 RCW. A dependent child who has been
3 abandoned, abused, or neglected may be placed only in a facility
4 operated and administered by the state of Washington. Unless there is
5 reasonable cause to believe that the safety or welfare of the child
6 would be jeopardized or that efforts to reunite the parent and child
7 will be hindered, such child shall be placed with a grandparent,
8 brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin
9 with whom the child has a relationship and is comfortable, and who is
10 willing and available to care for the child. An order for out-of-home
11 placement may be made only if the court finds that reasonable efforts
12 have been made to prevent or eliminate the need for removal of the
13 child from the child's home and to make it possible for the child to
14 return home, specifying the services that have been provided to the
15 child and the child's parent, guardian, or legal custodian, and that
16 preventive services have been offered or provided and have failed to
17 prevent the need for out-of-home placement, unless the health, safety,
18 and welfare of the child cannot be protected adequately in the home,
19 and that:

20 (i) There is no parent or guardian available to care for such
21 child;

22 (ii) The parent, guardian, or legal custodian is not willing to
23 take custody of the child;

24 (iii) A manifest danger exists that the child will suffer serious
25 abuse or neglect if the child is not removed from the home and an order
26 under RCW 26.44.063 would not protect the child from danger; or

27 (iv) The extent of the child's disability is such that the parent,
28 guardian, or legal custodian is unable to provide the necessary care
29 for the child and the parent, guardian, or legal custodian has
30 determined that the child would benefit from placement outside of the
31 home.

32 (2) If the court has ordered a child removed from his or her home
33 pursuant to subsection (1)(b) of this section, the court may order that
34 a petition seeking termination of the parent and child relationship be
35 filed if the court finds it is recommended by the supervising agency,
36 that it is in the best interests of the child and that it is not
37 reasonable to provide further services to reunify the family because
38 the existence of aggravated circumstances make it unlikely that
39 services will effectuate the return of the child to the child's parents

1 in the near future. In determining whether aggravated circumstances
2 exist, the court shall consider one or more of the following:

3 (a) Conviction of the parent of rape of the child in the first,
4 second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and
5 9A.44.079;

6 (b) Conviction of the parent of criminal mistreatment of the child
7 in the first or second degree as defined in RCW 9A.42.020 and
8 9A.42.030;

9 (c) Conviction of the parent of one of the following assault
10 crimes, when the child is the victim: Assault in the first or second
11 degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child
12 in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;

13 (d) Conviction of the parent of murder, manslaughter, or homicide
14 by abuse of the child's other parent, sibling, or another child;

15 (e) A finding by a court that a parent is a sexually violent
16 predator as defined in RCW 71.09.020;

17 (f) Failure of the parent to complete available treatment ordered
18 under this chapter or the equivalent laws of another state, where such
19 failure has resulted in a prior termination of parental rights to
20 another child and the parent has failed to effect significant change in
21 the interim.

22 (3) Whenever a child is ordered removed from the child's home, the
23 agency charged with his or her care shall provide the court with:

24 (a) A permanency plan of care that shall identify one of the
25 following outcomes as a primary goal and may identify additional
26 outcomes as alternative goals: Return of the child to the home of the
27 child's parent, guardian, or legal custodian; adoption; guardianship;
28 or long-term relative or foster care, until the child is age eighteen,
29 with a written agreement between the parties and the care provider.

30 (b) Unless the court has ordered, pursuant to subsection (2) of
31 this section, that a termination petition be filed, a specific plan as
32 to where the child will be placed, what steps will be taken to return
33 the child home, and what actions the agency will take to maintain
34 parent-child ties. All aspects of the plan shall include the goal of
35 achieving permanence for the child.

36 (i) The agency plan shall specify what services the parents will be
37 offered in order to enable them to resume custody, what requirements
38 the parents must meet in order to resume custody, and a time limit for
39 each service plan and parental requirement.

1 (ii) The agency shall be required to encourage the maximum parent-
2 child contact possible, including regular visitation and participation
3 by the parents in the care of the child while the child is in
4 placement. Visitation may be limited or denied only if the court
5 determines that such limitation or denial is necessary to protect the
6 child's health, safety, or welfare.

7 (iii) A child shall be placed as close to the child's home as
8 possible, preferably in the child's own neighborhood, unless the court
9 finds that placement at a greater distance is necessary to promote the
10 child's or parents' well-being.

11 (iv) The agency charged with supervising a child in placement shall
12 provide all reasonable services that are available within the agency,
13 or within the community, or those services which the department of
14 social and health services has existing contracts to purchase. It
15 shall report to the court if it is unable to provide such services.

16 (c) If the court has ordered, pursuant to subsection (2) of this
17 section, that a termination petition be filed, a specific plan as to
18 where the child will be placed, what steps will be taken to achieve
19 permanency for the child, services to be offered or provided to the
20 child, and, if visitation would be in the best interests of the child,
21 a recommendation to the court regarding visitation between parent and
22 child pending a fact-finding hearing on the termination petition. The
23 agency shall not be required to develop a plan of services for the
24 parents or provide services to the parents.

25 (4) If there is insufficient information at the time of the
26 disposition hearing upon which to base a determination regarding the
27 suitability of a proposed placement with a relative, the child shall
28 remain in foster care and the court shall direct the supervising agency
29 to conduct necessary background investigations as provided in chapter
30 74.15 RCW and report the results of such investigation to the court
31 within thirty days. However, if such relative appears otherwise
32 suitable and competent to provide care and treatment, the criminal
33 history background check need not be completed before placement, but as
34 soon as possible after placement. Any placements with relatives,
35 pursuant to this section, shall be contingent upon cooperation by the
36 relative with the agency case plan and compliance with court orders
37 related to the care and supervision of the child including, but not
38 limited to, court orders regarding parent-child contacts and any other
39 conditions imposed by the court. Noncompliance with the case plan or

1 court order shall be grounds for removal of the child from the
2 relative's home, subject to review by the court.

3 (5) Except for children whose cases are reviewed by a citizen
4 review board under chapter 13.70 RCW, the status of all children found
5 to be dependent shall be reviewed by the court at least every six
6 months from the beginning date of the placement episode or the date
7 dependency is established, whichever is first, at a hearing in which it
8 shall be determined whether court supervision should continue. The
9 review shall include findings regarding the agency and parental
10 completion of disposition plan requirements, and if necessary, revised
11 permanency time limits.

12 (a) A child shall not be returned home at the review hearing unless
13 the court finds that a reason for removal as set forth in this section
14 no longer exists. The parents, guardian, or legal custodian shall
15 report to the court the efforts they have made to correct the
16 conditions which led to removal. If a child is returned, casework
17 supervision shall continue for a period of six months, at which time
18 there shall be a hearing on the need for continued intervention.

19 (b) If the child is not returned home, the court shall establish in
20 writing:

21 (i) Whether reasonable services have been provided to or offered to
22 the parties to facilitate reunion, specifying the services provided or
23 offered;

24 (ii) Whether the child has been placed in the least-restrictive
25 setting appropriate to the child's needs, including whether
26 consideration has been given to placement with the child's relatives;

27 (iii) Whether there is a continuing need for placement and whether
28 the placement is appropriate;

29 (iv) Whether there has been compliance with the case plan by the
30 child, the child's parents, and the agency supervising the placement;

31 (v) Whether progress has been made toward correcting the problems
32 that necessitated the child's placement in out-of-home care;

33 (vi) Whether the parents have visited the child and any reasons why
34 visitation has not occurred or has been infrequent;

35 (vii) Whether additional services are needed to facilitate the
36 return of the child to the child's parents; if so, the court shall
37 order that reasonable services be offered specifying such services; and

38 (viii) The projected date by which the child will be returned home
39 or other permanent plan of care will be implemented.

1 (c) The court at the review hearing may order that a petition
2 seeking termination of the parent and child relationship be filed.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 13.34 RCW
4 to read as follows:

5 A dependent child who has been abandoned, abused, or neglected may
6 be placed only in a facility operated and administered by the state of
7 Washington.

8 **Sec. 4.** RCW 74.13.031 and 1990 c 146 s 9 are each amended to read
9 as follows:

10 The department shall have the duty to provide child welfare
11 services as defined in RCW 74.13.020, and shall:

12 (1) Develop, administer, supervise, and monitor a coordinated and
13 comprehensive plan that establishes, aids, and strengthens services for
14 the protection and care of homeless, runaway, dependent, or neglected
15 children.

16 (2) Develop a recruiting plan for recruiting an adequate number of
17 prospective adoptive and foster homes, both regular and specialized,
18 i.e. homes for children of ethnic minority, including Indian homes for
19 Indian children, sibling groups, handicapped and emotionally disturbed,
20 and annually submit the plan for review to the house and senate
21 committees on social and health services. The plan shall include a
22 section entitled "Foster Home Turn-Over, Causes and Recommendations."

23 (3) Investigate complaints of neglect, abuse, or abandonment of
24 children, and on the basis of the findings of such investigation, offer
25 child welfare services in relation to the problem to such parents,
26 legal custodians, or persons serving in loco parentis, and/or bring the
27 situation to the attention of an appropriate court, or another
28 community agency: PROVIDED, That an investigation is not required of
29 nonaccidental injuries which are clearly not the result of a lack of
30 care or supervision by the child's parents, legal custodians, or
31 persons serving in loco parentis. If the investigation reveals that a
32 crime may have been committed, the department shall notify the
33 appropriate law enforcement agency.

34 (4) Offer, on a voluntary basis, family reconciliation services to
35 families who are in conflict.

36 (5) Monitor out-of-home placements, on a timely and routine basis,
37 to assure the safety, well-being, and quality of care being provided is

1 within the scope of the intent of the legislature as defined in RCW
2 74.13.010 and 74.15.010, and annually submit a report delineating the
3 results to the house and senate committees on social and health
4 services.

5 (6) Operate and administer facilities to provide safety and
6 nurturing care for dependent children who have been abandoned, abused,
7 or neglected.

8 (7) Have authority to accept custody of children from parents and
9 to accept custody of children from juvenile courts, where authorized to
10 do so under law, to provide child welfare services including placement
11 for adoption, and to provide for the physical care of such children and
12 make payment of maintenance costs if needed. Except where required by
13 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency
14 which receives children for adoption from the department shall
15 discriminate on the basis of race, creed, or color when considering
16 applications in their placement for adoption.

17 ((+7)) (8) Have authority to provide temporary shelter to children
18 who have run away from home and who are admitted to crisis residential
19 centers.

20 ((+8)) (9) Have authority to purchase care for children; and shall
21 follow in general the policy of using properly approved private agency
22 services for the actual care and supervision of such children insofar
23 as they are available, paying for care of such children as are accepted
24 by the department as eligible for support at reasonable rates
25 established by the department.

26 ((+9)) (10) Establish a children's services advisory committee
27 which shall assist the secretary in the development of a partnership
28 plan for utilizing resources of the public and private sectors, and
29 advise on all matters pertaining to child welfare, day care, licensing
30 of child care agencies, adoption, and services related thereto. At
31 least one-third of the membership shall be composed of child care
32 providers, and at least one member shall represent the adoption
33 community.

34 ((+10)) (11) Have authority to provide continued foster care or
35 group care for individuals from eighteen through twenty years of age to
36 enable them to complete their high school or vocational school program.

37 ((+11)) (12) Have authority within funds appropriated for foster
38 care services to purchase care for Indian children who are in the
39 custody of a federally recognized Indian tribe or tribally licensed

1 child-placing agency pursuant to parental consent, tribal court order,
2 or state juvenile court order; and the purchase of such care shall be
3 subject to the same eligibility standards and rates of support
4 applicable to other children for whom the department purchases care.

5 Notwithstanding any other provision of RCW 13.32A.170 through
6 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
7 services to be provided by the department of social and health services
8 under subsections (4), ~~((+6),—and))~~ (7), and (8) of this section,
9 subject to the limitations of these subsections, may be provided by any
10 program offering such services funded pursuant to Titles II and III of
11 the federal juvenile justice and delinquency prevention act of 1974.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 74.13 RCW
13 to read as follows:

14 The department shall operate and administer facilities to provide
15 safety and nurturing care for dependent children who have been
16 abandoned, abused, or neglected.

17 NEW SECTION. **Sec. 6.** It is the intent of the people that the
18 legislature provide adequate funding by June 30, 1996, to the
19 department of social and health services for the department to operate
20 and administer facilities to provide safety and nurturing care for
21 dependent children who have been abused, neglected, or abandoned.

22 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act shall take
23 effect July 1, 1996.

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